

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff

v.

BRADLEY WOOLARD,

Defendant.

CASE NO. CR18-217RSM

ORDER DENYING MOTION RE:  
SPOUSAL PRIVILEGE

This matter comes before the Court on Defendant Woolard's "Motion to Invoke Spousal Privilege and Suppress Privileged Statements." Dkt. #405. Mr. Woolard initially moved for an "order that communications including both words and acts between Mr. Woolard and his wife S.B. made while they were married, which were intended to be confidential communications, are privileged and therefore S.B. may not testify as to those communications." *Id.* at 1. The Government argues this is overbroad. Dkt. #524 at 1. On Reply, Mr. Woolard acknowledges "the government has not yet produced any statements made by S.B." and that "the exact nature of the statements is not clear." Dkt. #579 at 1. He thus asks only for the Court to "direct the government to disclose well in advance of trial any statements it intends to offer through S.B. so that objections and ruling can be made with the need to delays during trial." *Id.* at 2. The Court has concluded oral argument is not necessary for this Motion.

1 Bradley Woolard is charged in this case with drug conspiracy, money laundering  
2 conspiracy, substantive drug possession charges, being a felon in possession of a firearm, and  
3 possession of a firearm in furtherance of a drug trafficking crime. His wife, S.B., was charged  
4 with various crimes in the First Superseding indictment and has since pled guilty to Conspiracy  
5 to Distribute Controlled Substances and Money Laundering. Mr. Woolard believes she is  
6 cooperating with the government and may testify at trial.

7  
8 The two met in approximately 2006 and married on June 10, 2017. Mr. Woolard was  
9 arrested in September of 2018. For the next several months, Mr. Woolard and S.B. continued to  
10 communicate with one another while he was in custody. On October 31, 2019, Mr. Woolard  
11 filed a “Petition for Divorce (Dissolution)” in Snohomish County Superior Court, alleging the  
12 marriage was “irretrievably broken.” Dkt. #526 (filed under seal). He specifically asked the  
13 court to “find that our marital community ended on 9/13/2018.” *Id.*

14 Rule 501 states that “the privilege of a witness [or] person ... shall be governed by the  
15 principles of the common law as they may be interpreted by the courts of the United States in the  
16 light of reason and experience.” Courts recognize two privileges in a marital relationship. The  
17 first is the “anti-marital facts” privilege, which allows a witness to refuse to testify against his or  
18 her spouse. *See Trammel v. United States*, 445 U.S. 40, 53 (1980); *United States v. White*, 974  
19 F.2d 1135, 1138 (9th Cir. 1992); *United States v. Montgomery*, 384 F.3d 1050, 1056 (9th Cir.  
20 2004). The second is the “marital communications” privilege, which (1) extends to words and  
21 acts intended to be a communication; (2) requires a valid marriage; and (3) applies only to  
22 confidential communications. *United States v. Marashi*, 913 F.2d 724, 729-30 (9th Cir. 1990).  
23 The privilege does not cover communications after an otherwise married couple has  
24 “irreconcilably separated.” *Id.* at 730 (citing *United States v. Roberson*, 859 F.2d 1376, 1381  
25  
26  
27

1 (9th Cir. 1988)). The non-testifying spouse may invoke the privilege, even after dissolution of  
2 the marriage. *Id.* at 729.

3 Also at issue in this case will be the “partnership in crime” exception. *See* Dkt. #524 at  
4 6 (citing *Marashi, supra*). Under this exception, a spouse of an accused is permitted to testify  
5 willingly concerning joint criminal activities. *Marashi*, 913 F.2d at 730 (citing *United States v.*  
6 *Estes*, 793 F.2d 465, 466 (2d Cir. 1986)).

7  
8 The Court is convinced, and Mr. Woolard appears to concede, that it cannot grant the  
9 instant Motion as originally drafted. This is because the Government has pointed to several  
10 factual and legal bases for S.B. to testify about communications during the time frame that they  
11 were legally married. The Court will not rule on these issues in a vacuum. If the Government  
12 intends to offer testimony from this witness that could potentially trigger the privileges above,  
13 this issue can be addressed swiftly at trial without significant delay or inconvenience. As such,  
14 disclosure prior to trial by the Government is unnecessary.

15  
16 Having reviewed the briefing, along with the remainder of the record, the Court  
17 hereby finds and ORDERS that the "Motion to Invoke Spousal Privilege and Suppress  
18 Privileged Statements" filed by Defendant Bradley Woolard, Dkt. #405, is DENIED.

19 DATED this 10<sup>th</sup> day of June, 2021.  
20  
21

22 

23 RICARDO S. MARTINEZ  
24 CHIEF UNITED STATES DISTRICT JUDGE  
25  
26  
27